

9. (Canceled)

REMARKS

This is in full and timely response to the initial Office Action of April 3, 2008 for this continuing application as appropriately noted in section 1 on page 2 of the Action. The Applicant persists in his application for a patent and makes these amendments and arguments responsive to the new grounds of rejection as stated in the pending Action. Reexamination and reconsideration are respectfully requested. It may be noted that the due date is August 3, 2008 which falls on a Sunday, so that if this response is deposited as late as Monday, August 4, 2008, it remains timely with an accompanying request for a one month extension of time to respond.

Priority

The pending Action acknowledges the claim for priority (presumably in the parent application) and notes that the priority documents have been received.

Drawings

The Action also acknowledges that the drawings submitted with the parent are accepted.

Claims

Claims 1, 4 and 6 to 9 were pending for examination in this continuing application of which claims 1 and 8 are independent claims. By this response, as an overview, independent claims 1 and 8 are amended, claims 4 and 9 are canceled, and claims 6 and 7 retained unamended. Thus, claims 1, 6, 7 and 8 are pending for reconsideration and reexamination.

The formerly pending claims were rejected as unpatentable under section 103 (a) over Isogai '269 (previously relied upon) in view of Yoshida '596 (newly cited and relied upon in this Action) as developed in section 3 spanning pages 2 to 4 of the Action. Without necessarily agreeing with or acquiescing in the clear statement of the rejection, these rejections are respectfully traversed

in light of the amendments to claims 1 and 8 clarifying the non-obvious functioning of the control unit as further amended in this response.

Specifically, in the unit now recited as having a base, a face supporting unit fixed to the base, a first unit and second unit now each recited as having a motor, and an examination unit movable up/down with respect to the base and aligned with respect to the face of an examinee (see, e.g., the amendments to claim 1), the control unit functions are more clearly recited. Still discussing the claim specifically, the control unit is now clarified as to its obtaining of the deviation amount, while adding that it performs alignment of the examination unit with respect to the eye by driving the motor of the second moving unit if the obtained deviation amount is not outside the predetermined possible range. The control unit is also said to drive the motor of the first moving unit as stated if the obtained alignment deviation amount is outside the predetermined permissible range. Finally, the control unit is said to perform alignment of the examination unit with respect to the eye by driving the motor of the second moving unit when the deviation amount is within the predetermined possible range. See the last several paragraphs, e.g. of claim 1 as amended and the similar, though possibly broader statement of control unit functions in amended claim 8.

The amended features of the claims are supported by the application as filed (semble) as to both its structure and the functioning of the control unit.

An apparatus according to the present invention thus includes a motor-driven up/down movement mechanism of a chin rest in addition to a motor-driven up/down movement mechanism of an examination unit, and is capable of performing alignment of the examination unit in an up/down direction with respect to an examinee's eye by control of up/down movement of the chin rest and control up/down movement of the examination unit without operation by an examiner even in a case where the eye is positioned outside a predetermined possible range of the alignment in the up/down direction.

Such a motor-driven up/down movement mechanism of a chin rest is not included in apparatuses disclosed by Isogai et al. (5, 909,269) and Yoshida (6,135,596) while a motor driven up

/down movement mechanism of an examination unit is included. Therefore, neither of the apparatuses disclosed by Isogai et al. and Yoshida is capable of performing alignment of the examination unit in an up/down direction with respect to an examinee's eye by control of up/down movement of a chin rest and control of up/down movement of the examination unit as recited in amended claim 1 and 8.

Indeed, the argument of the examiner concedes that Isogai does not specifically disclose judging whether or not an alignment deviation amount is outside of a possible range (see the middle of page 3 of the Action). Accordingly, Isogai cannot suggest or imply that feature notwithstanding any teachings of Yoshida. Nor does Yoshida teach or suggest the combination of features now claimed, so that any reasonable combination of Isogai and Yoshida falls short of meeting the express terms of the amended claims. The citation to the passage in col. 6 of Yoshida does not suggest otherwise.

Accordingly, pending claims 1 (amended), 6, 7, and 8 (amended) are allowable over the art applied, while formerly pending claims 4 and 9 are now additionally canceled.

Early Notice to that effect is respectfully solicited.

Applicant believes no fee is due with this response other than an extension fee. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. WEN-0027 from which the undersigned is authorized to draw.

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Respectfully submitted,

By _____
Ronald P. Kananen

Registration No.: 24,104

Christopher M. Tobin

Registration No.: 40,290

RADER, FISHMAN & GRAUER PLLC

Correspondence Customer Number: 23353

Attorneys for Applicant